

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

PAUL SMITH and LYNDALL SMITH

PLAINTIFFS

v.

CIVIL ACTION NO. 3:07cv7-HTW-LRA

PLEKO SOUTHEAST CORPORATION, et al.

DEFENDANTS

ORDER

This cause comes before the court on the plaintiffs' emergency motion to remand in the above styled cause. The matter before the court concerns Title 28 U.S.C. § 1446(b) and its provision that a case may not be removed if more than one year has elapsed since the original petition was filed. The defendant, Pleko Southeast Corporation, argues that removal is proper, that an equitable exception to the one-year limitation may be asserted in this case, and cites the decision of the United States Court of Appeals for the Fifth Circuit, *Tedford v. Warner- Lambert Co .*, 327 F.3d 423, 424 (5th Cir. 2003), in support of these arguments. This court has heard the parties' arguments, has reviewed the applicable law, and has considered the submissions of the parties. This court is not persuaded that any equitable exception to the one-year limitation under § 1446(b) is present in this case. Consequently, this court hereby grants the plaintiffs' emergency motion to remand this case to the Circuit Court for the First Judicial District of Hinds County, Mississippi.

SO ORDERED, this 9th day of January, 2007.

**s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE**